

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 19-1220V

UNPUBLISHED

JOSHUA MONNENS and ELISABETH
MONNENS on behalf of R.M., a minor
child,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: February 7, 2020

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Rotavirus Vaccine; Intussusception

Glynn Weldon Gilcrease, Jr., Law Office of Glynn W. Gilcrease, Jr., PC, Tempe, AZ, for petitioner.

Voris Edward Johnson, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On August 16, 2019, Joshua and Elisabeth Monnens filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the “Vaccine Act”), on behalf of their minor child, R.M. Petitioners allege that R.M. suffered from an intussusception as a result of receiving a rotavirus vaccination on June 11, 2018. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On November 21, 2019, a ruling on entitlement was issued, finding Petitioners entitled to compensation for R.M.’s intussusception. On February 6, 2020, Respondent

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

filed a proffer on award of compensation ("Proffer") indicating Petitioners should be awarded \$50,000.00 as guardians/conservators of R.M.'s estate and \$1,029.27, representing compensation for their past unreimbursable expenses. Proffer at 1-2. In the Proffer, Respondent represented that Petitioners agree with the proffered award. *Id.* Based on the record as a whole, I find that Petitioners are entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioners the total amount of \$51,029.27 as follows:**

- A. A lump sum payment of \$50,000.00 in the form of a check payable to Petitioners as guardians/conservators of R.M.'s estate; and**
- B. A lump sum payment of \$1,029.27 in the form of a check payable directly to Petitioners, representing compensation for their actual unreimbursable expenses.**

These amounts represent compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

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MONNENS, on behalf of R.M., a minor child,

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

No. 19-1220V (ECF)
Chief Special Master Corcoran

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On November 20, 2019, respondent filed his Rule 4(c) Report, in which he recommended that the Court find petitioners Joshua and Elisabeth Monnens, on behalf of their minor son, R.M., entitled to compensation in this case alleging the Table injury intussusception following a rotavirus vaccination. On November 21, 2019, the Court entered its Ruling on Entitlement, finding petitioners entitled to compensation. Respondent now proffers that petitioners receive an award consisting of the following:

- A. A lump sum of **\$50,000.00** in the form of a check payable to petitioners, as guardians/conservators of R.M.’s estate. This amount represents compensation for all elements of compensation under **42 U.S.C. § 300aa-15(a)** to which petitioners, as guardians/conservators of R.M.’s estate, are entitled.¹

¹ Should R.M. die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future pain and suffering, and future lost wages.

- B. A lump sum payment of **\$1,029.27**, in the form of a check made payable directly to petitioners, representing compensation for petitioners' unreimbursed past expenses pursuant to **42 U.S.C. § 300aa-15(a)(1)(B)**.

Petitioners agree with the proffered award described in paragraphs A and B, above.²

Petitioners further agree that the payment described in paragraph A, above, shall not be made until petitioners provide the Secretary with documentation establishing their appointment as guardians/conservators of the estate of R.M. under the laws of the State of North Carolina. If petitioners are not authorized by a court of competent jurisdiction to serve as the guardians/conservators of the estate of R.M. at the time a payment pursuant to the Court's judgment is to be made, any such payment shall be paid to the party or parties appointed by a court of competent jurisdiction to serve as guardian(s)/conservator(s) of the estate of R.M. upon submission of written documentation of such appointment to the Secretary.

Respectfully submitted,

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² This proffer does not include any award for attorneys' fees and costs that may be awarded pursuant to **42 U.S.C. § 300aa-15(e)**.

/s/ Voris E. Johnson, Jr.
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